THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 5724 OF 2007

Dated:20.04.2007

Between:

Dr. P.S.Prasad, New Delhi and others

…Petitioners

And :

The Hyderabad Urban Development Authority, Hyderabad.

… Respondent

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 5724 OF 2007

ORAL ORDER :

The eight petitioners claiming to be assignees of land of an extent of Ac.40.00 in Sy.No. 78/B of Hafizpet village, Serilingampally Mandal, R.R.District and thus the owners and possessors of the land in terms of the assignment deed dated 21.05.2005 and qua the orders of this court in C.S.No. 14 of 1958, applied for building permission on 15.11.2006 to the respondent seeking approval of the lay out proposals. According to the petitioners when they approached the respondent they were informed that the building permission could not be granted since computation under the Urban Land (Ceiling and Regulation) Act ('the Act') has not been completed. In the circumstances they are before this court, in

substance seeking a direction to the respondent to pass appropriate orders on their applications for grant of lay out.

Sri Dhanunjay Reddy, the learned Standing Counsel for the respondent submits that since the ownership or entitlement of the petitioners to the property in question is in dispute and involves resolution of complex issues including under the Act, the Authority had addressed the Competent Authority under the Act for clarification as to the status of the property *qua* the provisions of the Act, but has received no response. The last of the communications is stated to have been addressed on 8.11.2006. According to the respondent's information the Competent Authority under the Act had addressed a letter to the District Collector. As the response of the District Collector has not been received by the Competent Authority, the Competent Authority under the Act is unable to reply to the queries of the respondent and thus no decision could be taken, is the assertion on behalf of the respondent on the oral instructions obtained by the learned Standing Counsel.

The respondent is the authority competent either to grant or decline grant of approval for the lay out proposals, with or without modifications. When such an application is made to the respondent, the respondent is bound to exercise the available power, which is a power coupled with a liability to be exercised in appropriate cases. Having received the stipulated fees paid by the petitioners for grant/approval of lay out, the respondent does not have an option to do nothing. This is the option that however appears to have been chosen by the respondent and for reasons which are jejune. The interminable correspondence that the respondent has initiated with the Competent Authority under the Act and the District Collector, would not immunize the respondent from taking a decision and communicating the same

to the petitioners.

For the aforesaid reasons the respondent is directed to pass appropriate orders on the petitioners' applications dated 15.11.2006 for grant of approval for the lay out proposals submitted by them, within two weeks from the date of receipt of a copy of this order. It is open to the respondent to use such persuasions as are appropriate to sensitize the Competent Authority under the Act or the District Collector, as the case may be, to issue appropriate clarifications as would facilitate a rational decision by the respondent. Even if no such response from the District Collector or the Competent Authority under the Act is received by the respondent, the respondent shall pass an order on a best judgment basis, on the material available before it and in accordance with law, but within the aforesaid time.

The writ petition is accordingly disposed of. No order as to costs.

Dt: 20.04.2007 ----------

Pvsn Justice G.Raghuram